

ORDINANCE NO. 2017-001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS, AMENDING CHAPTER 25 UTILITIES AND SERVICES OF THE CITY OF GRAPEVINE CODE OF ORDINANCES, AS AMENDED, ADDING SECTION 25-211(d); ESTABLISHING LOT 1R, BLOCK 2, HILLTOP ADDITION OF THE CITY OF GRAPEVINE, TARRANT COUNTY, TEXAS AS A MUNICIPAL SETTING DESIGNATION SITE; PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES FOR THE SITE; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A FINE OF UP TO \$2,000.00; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Grapevine adopted Ordinance No. 2005-79 on October 11, 2005 establishing processes, procedures and restrictions associated with a Municipal Setting Designation authorized under Chapter 361, Subchapter W of the Texas Health and Safety Code; and

WHEREAS, TRG Aura Grapevine, LLC (Applicant) has filed an application with the City of Grapevine for the City's approval of a Municipal Setting Designation (MSD) for Lot 1R, Block 2, Hilltop Addition, a 5.0784 acre site located at 404 East Dallas Road, Grapevine, Texas, more fully described in Exhibit "A", attached hereto and incorporated herein in its entirety; and

WHEREAS, upon passage of a supporting resolution by the City Council, Applicant intends to file a separate application with the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for certification of an MSD for the Site pursuant to Texas Health and Safety Code, Chapter 361, Subchapter W; and

WHEREAS, Applicant has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response actions at the Site; and

WHEREAS, the City Council of the City of Grapevine is of the opinion that it is in the best interest of the public and the City to support Applicant's application to the Texas Commission on Environmental Quality for a Municipal Setting Designation for the Site; and

WHEREAS, in order for the TCEQ to certify the Site, the City must prohibit the potable use of groundwater from beneath the Site; and

WHEREAS, a public drinking water supply system exists that supplies, or is capable of supplying, drinking water to the Site, and property within one-half mile of the Site; and

WHEREAS, where public drinking water is available, the potable use of groundwater in designated areas should be prohibited to protect public health and welfare when the quality of the groundwater presents an actual or potential threat to human health; and

WHEREAS, all constitutional and statutory prerequisites for the approval of this ordinance have been met, including but not limited to the Open Meetings Act; and

WHEREAS, the City Council deems the adoption of this ordinance to be in the best interests of the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS:

Section 1. That all matters stated hereinabove are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

WHEREAS, City Council has found that the passage of this Ordinance serves the best interests of the health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS:

Section 1. That all of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2. That Chapter 25 Utilities and Services, Section 25-211 of the City of Grapevine Code of Ordinances, as amended, is hereby amended by adding the following:

- “(d) Lot 1R, Block 2, Hilltop Addition”

Section 3. That the designated groundwater beneath Lot 1R, Block 2, Hilltop Addition, City of Grapevine, Tarrant County, Texas is the shallow water table of the designated property. This shallow groundwater is in alluvial soils which lie over the Eagle Ford Shale Formation which underlies the site. The designated groundwater zone is a layer of sand and sandy clay from approximately 8 feet below ground surface to the top of a shale bedrock unit encountered between 10 and 25 feet below ground surface.

Section 4. That the following contaminants associated with the Site have been detected within the designated groundwater at concentrations exceeding residential assessment levels for potable use:

- trichloroethylene (TCE)
- Cis-1,2-Dichloroethene (cis-1,2-DCE)

Section 5. That the use of the designated groundwater associated with Lot 1R, Block 2, Hilltop Addition in the City of Grapevine, Tarrant County, Texas for potable and irrigation purposes is hereby prohibited. This prohibition is necessary because the contaminant concentrations exceed potable water standards.

Section 6. That the City will provide advance written notice to the Texas Commission on Environmental Quality, as much as is practicable, prior to enacting an ordinance repealing or amending this section.

Section 7. That this ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Grapevine, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

Section 8. That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 9. That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 10. That all rights and remedies of the City of Grapevine, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended in Section 1, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 11. That this ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.


Section 12. That if any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto to any person or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby

declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect.


Section 13. That the fact that the present ordinances and regulations of the City of Grapevine, Texas, are inadequate to properly safeguard the health, safety, morals, peace, and general welfare of the inhabitants of the City of Grapevine, Texas, creates an emergency for the immediate preservation of the public business, property, health, safety and general welfare of the public which requires that this ordinance become effective from and after the date of its passage and it is accordingly so ordained.

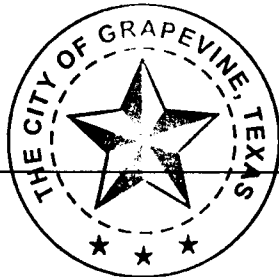
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAPEVINE, TEXAS on this the 17th day of January, 2017.

APPROVED:

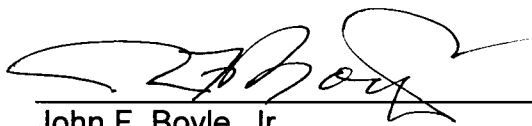
  
\_\_\_\_\_  
Darlene Freed  
Mayor Pro Tem

ATTEST:

  
\_\_\_\_\_  
Tara Brooks  
City Secretary



APPROVED AS TO FORM:

  
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John F. Boyle, Jr.  
City Attorney

